



General Assembly

January Session, 2001

Raised Bill No. 6991

LCO No. 4770

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING THE RETENTION OF SERVICE CONTRACT WORKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) As used in this section:

2 (1) "Awarding authority" means any person, including a contractor
3 or subcontractor, who awards or otherwise enters into a contract to
4 perform any of the following services within the state: Security,
5 janitorial, building maintenance, food and beverage, hotel, including
6 hotel physical plant engineering, hotel electrician and hotel and
7 convention center stagehand, hotel and convention center exhibition
8 and convention setup and teardown, carpenter, painting, audiovisual
9 and lighting technician, healthcare and any service performed by
10 nonelected and nonappointed state employees, but does not include
11 services performed by any restaurant owned and operated by one or
12 more individuals or an organization other than a publicly-traded
13 corporation.

14 (2) "Contractor" means any person who enters into a service contract
15 with the awarding authority and any subcontractors to such service

16 contract at any tier who employs ten or more persons.

17 (3) "Employee" means any person engaged to perform services
18 pursuant to a service contract, including registered nurses, but does
19 not include a person who is (A) a managerial, supervisory or
20 confidential employee, including any person who would be so defined
21 under the federal Fair Labor Standards Act, or (B) employed for less
22 than ten hours per week.

23 (4) "Person" means any individual, proprietorship, partnership, joint
24 venture, corporation, limited liability company, trust association or
25 other entity that may employ or enter into other contracts.

26 (5) "Service contract" means a contract let to a contractor by the
27 awarding authority for the furnishing of security, janitorial, building
28 maintenance, food and beverage, hotel service or nonprofessional
29 health care services, including any services to be performed by
30 registered nurses.

31 (6) "Successor service contract" means a service contract with the
32 awarding authority under which substantially the same services to be
33 performed have previously been rendered to the awarding authority
34 as part of the same program or at the same facility under another
35 service contract or have previously been rendered by the awarding
36 authority's own employees.

37 (7) "Terminated contractor" means a contractor whose service
38 contract expires without renewal or whose contract is terminated, and
39 includes the awarding authority itself when work previously rendered
40 by the awarding authority's own employees is the subject of a
41 successor service contract.

42 (b) Each contractor and awarding authority that enters into a service
43 contract to be performed within this state shall be subject to the
44 following obligations:

45 (1) The awarding authority shall give advance notice to a contractor

46 and the exclusive bargaining representative of any of the contractor's
47 employees, of the termination of such service contract and shall
48 provide the contractor and the exclusive bargaining representative
49 with the name, telephone number and address of the successor
50 contractor or contractors, if known. The terminated contractor shall,
51 not later than three days after receipt of such notice, provide the
52 successor contractor with the name, date of hire and employment
53 occupation classification of each person employed by the terminated
54 contractor at the site or sites covered by the service contract as of the
55 date the terminated contractor receives the notice of termination.

56 (2) On the date the service contract terminates, the terminated
57 contractor shall provide the successor contractor with updated
58 information concerning the name, date of hire and employment
59 occupation classification of each person employed by the terminated
60 contractor at the site or sites covered by the service contract, to ensure
61 that such information is current up to the actual date of service
62 contract termination.

63 (3) If the awarding authority fails to notify the terminated contractor
64 of the identity of the successor contractor, as required by subdivision
65 (1) of this subsection, the terminated contractor shall provide such
66 information to the awarding authority not later than three days after
67 receiving notice that the service contract will be terminated. The
68 awarding authority shall be responsible for providing such
69 information to the successor contractor as soon as the successor
70 contractor has been selected.

71 (4) (A) A successor contractor or subcontractor shall retain, for at
72 least one year from the date of first performance of services under the
73 successor service contract, all of the employees who were employed by
74 the terminated contractor at the site or sites covered by the service
75 contract during the eight-month period immediately preceding the
76 termination date of such service contract.

77 (B) In the event the successor service contract is terminated prior to

78 the expiration of such one-year period, then any contractor awarded a
79 subsequent successor service contract shall be bound by the
80 requirements set forth in this subsection to retain, for a new one-year
81 period commencing with the onset of the subsequent successor service
82 contract, all of the employees who were previously employed by any
83 one or more of the terminated contractors at the site or sites covered by
84 the service contract during the eight-month period immediately
85 preceding the date of the most recently terminated service contract.

86 (C) At least five days prior to the termination of a service contract,
87 or at least fifteen days prior to the commencement of the first
88 performance of service under a successor service contract, whichever is
89 later, the successor contractor shall hand-deliver a written offer of
90 employment in substantially the form set forth below to each such
91 employee in such employee's native language or any other language in
92 which such employee is fluent:

93 IMPORTANT INFORMATION REGARDING YOUR
94 EMPLOYMENT

95 TO: (Name of employee)

96 We have received information that you are employed by (name of
97 predecessor contractor) and are currently performing work at (address
98 of worksite). (Name of predecessor contractor)'s contract to perform
99 (describe services under contract) at (address of worksite) will
100 terminate as of (last day of predecessor contract) and it will no longer
101 be providing those services as of that date.

102 We are (name of successor contractor) and have been hired to provide
103 services similar to those of (name of predecessor contractor) at
104 (address of worksite). We are offering you a job with us for a one year
105 probationary period starting (first day of successor contract) to
106 perform the same type of work that you have already been doing for
107 (name of predecessor contractor) under the following terms:

108 Payrate (per hour): \$_____

109 Hours per shift: _____

110 Total hours per week: _____

111 Benefits: _____

112 You must respond to this offer within the next ten days. If you want to
113 continue working at (address of worksite) you must let us know by (no
114 later than five days prior to the expiration of the predecessor contract
115 or ten days after the date of this letter if the predecessor contract has
116 already expired). If we do not receive your response by the end of
117 business that day, we will not hire you and you will lose your job. We
118 can be reached at (successor contractor phone number).

119 Connecticut state law gives you the following rights:

120 1. You have the right with certain exceptions, to be hired by our
121 company for the first one year that we begin to provide services at
122 (address of worksite).

123 2. During this one-year period, you cannot be fired without just cause.

124 3. If you believe that you have been fired or laid off in violation of this
125 law, you have the right to sue us and be awarded back pay, attorneys
126 fees and court costs.

127 FROM: (Name of successor contractor)

128 (Address of successor contractor)

129 (Telephone number of successor contractor)

130 Each offer of employment shall state the time within which such
131 employee must accept such offer but in no case shall that time be less
132 than ten days from the date of the offer of employment.

133 (5) If at any time a successor contractor determines that fewer

134 employees are required to perform the successor service contract than
135 were required by the terminated contractor, the successor contractor
136 shall be required to retain such employees by seniority within each job
137 classification, based upon the employees' total length of service at the
138 affected site or sites.

139 (6) During such one-year period, the successor contractor shall
140 maintain a preferential hiring list of employees eligible for retention
141 pursuant to subdivision (4) of this subsection, who were not initially
142 retained by the successor contractor, from which the successor
143 contractor shall hire additional employees, if necessary.

144 (7) Except as provided under subdivision (6) of this subsection,
145 during such one-year period, the successor contractor shall not
146 discharge without just cause an employee retained pursuant to this
147 section. For purposes of this subdivision "just cause" shall be
148 determined solely by the performance or conduct of the particular
149 employee.

150 (c) (1) An employee displaced or terminated in violation of this
151 section may bring an action in superior court against the awarding
152 authority, the terminated contractor or the successor contractor, jointly
153 or severally, to recover damages for any violation of the obligations
154 imposed under this section.

155 (2) If the employee prevails in such action, the court may award the
156 employee (A) back pay, including the value of benefits, for each day
157 during which the violation continues, which shall be calculated at a
158 rate of compensation not less than the higher of (i) the average regular
159 rate of pay received by the employee during the last year of
160 employment in the same job occupation classification, or, if the
161 employee has been employed for less than one year, the average rate of
162 pay for the employee's entire employment multiplied by the average
163 number of hours worked per day over the last four months of
164 employment preceding the date of the violation, or (ii) the final regular
165 rate of pay received by the employee at the date of termination

166 multiplied by the average number of hours worked per day over the
167 past four months, and (B) reinstatement to the employee's former
168 position at not less than the most recent rate of compensation received
169 by the employee, including the value of any benefits.

170 (3) If the employee prevails in such action, the court shall award the
171 employee reasonable attorney fees and costs.

172 (4) Nothing in this subsection shall be construed to limit an
173 employee's right to bring a common law cause of action for wrongful
174 termination against the awarding authority, the terminated contractor
175 or the successor contractor.

176 (d) Any awarding authority or contractor who knowingly violates
177 the provisions of this section shall pay a penalty not to exceed one
178 hundred dollars per employee for each day the violation continues.

179 (e) The Labor Commissioner shall have the responsibility for the
180 enforcement of the provisions of this section and in connection with
181 such responsibility shall:

182 (1) Cause a notice containing the provisions of this section to be sent
183 to all persons currently engaged in performing any of the following
184 services within the state and to all persons who shall in the future
185 indicate on such application an intention to engage in such businesses,
186 including any subcontracts for such services: Security, janitorial,
187 building maintenance, food and beverage, hotel, including hotel
188 physical plant engineering, hotel electrician and hotel and convention
189 center stagehand, hotel and convention center exhibition and
190 convention setup and teardown, carpenter, painting, audiovisual and
191 lighting technician, health care and any service performed by
192 nonelected and nonappointed state employees.

193 (2) Maintain a current list of all business privilege license holders for
194 performing services listed in subdivision (1) of this subsection.

195 (3) Investigate all complaints against any contractor or awarding

196 authority and in connection with such complaint or with respect to any
197 investigation shall have full power and authority to subpoena any
198 witness, books, records or other data of any person for the purposes of
199 obtaining information pertinent to such investigation. The Labor
200 Commissioner shall make a finding, in writing, with respect to each
201 complaint filed, and shall send a copy of the complaint to the
202 complainant and the contractor and shall maintain it on file. Upon
203 request, the Labor Commissioner shall provide any affected contractor
204 with a hearing.

205 (4) Refer all complaints determined to have merit to the appropriate
206 state department for revocation of the offending contractor's business
207 privilege license.

208 (5) Monitor the operations of contractors and awarding authorities
209 to ensure compliance with the provisions of this section.

210 Sec. 2. This act shall take effect July 1, 2001.

Statement of Purpose:

To offer greater protection to workers who are displaced or terminated
when service contracts are terminated.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline,
except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is
not underlined.]*